



**DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224**

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Release Number: **200720021**

Release Date: 5/18/07

Date: February 20, 2007

U.I.L. – 4941.03-00 No Third Party Contacts

Contact Person:

Identification Number:

Telephone Number:

Employer Identification Number:

Legend:

A =

B =

C =

X =

Y =

x =

Dear _____ :

This is in response to your ruling request that A's redemption of stock will not be treated as an act of self-dealing under section 4941 of the Internal Revenue Code.

A is a for-profit corporation with only one class of stock. A's shares of common stock are owned by B (62%), C (33%) and X (5%). A is a disqualified person with respect to B.

B is a charitable remainder unitrust within the meaning of section 664(d)(2) of the Code. B was formed by X and Y as donors. X is one of the two trustees of B. X is the sole recipient of the unitrust amount payable from B each year.

C is an employee stock ownership plan.

A will offer to redeem for cash the common shares held by all of its shareholders (the Offer). The Offer will be on the same terms for all shareholders. The Redemption price is the fair market value of the stock as determined by an independent appraiser who is not a disqualified person to B. Each shareholder will have the right to have any or all of their shares redeemed by A. The Offer is up to a maximum aggregate redemption amount of \$x (Maximum Redemption Amount). In the event the value of the shares tendered by all shareholders exceeds the

Maximum Redemption Amount, then the number of shares tendered by a shareholder to be redeemed shall equal the number of shares tendered by the shareholder multiplied by a fraction the numerator of which is the Maximum Redemption Amount and the denominator is the total Redemption amount if the shares tendered by all the shareholders were redeemed without the application of the Maximum Redemption Amount.

It is anticipated that B will tender as many of its shares as possible pursuant to the Offer as subject to the Maximum Redemption Amount. X will not tender her shares and it is not known whether C will tender any of its shares.

Section 4941(d)(1)(A) of the Code provides that the term "self-dealing" means any direct or indirect sale or exchange of property between a private foundation and a disqualified person.

Section 4941(d)(2)(F) of the Code provides that any transaction between a private foundation and a corporation which is a disqualified person (as defined in section 4946(a)), pursuant to any liquidation, merger, redemption, recapitalization, or other corporate adjustment, organization, or reorganization, shall not be an act of self-dealing if all of the securities of the same class as that held by the private foundation are subject to the same terms and such terms provided for the receipt by the private foundation of no less than fair market value.

Section 53.4941(d)-3(d)(1) Foundation and Similar Excise Taxes Regulations provides that for purposes of section 4941(d)(2)(F) any transaction between a private foundation and a corporation which is a disqualified person will not be an act of self-dealing if such transaction is engaged in pursuant to a liquidation, merger, redemption, recapitalization, or other corporate adjustment, organization, or reorganization, so long as all the securities of the same class as that held (prior to such transaction) by the foundation are subject to the same terms and such terms provide for receipt by the foundation of no less than fair market value. For purposes of this paragraph, all of the securities are not "subject to the same terms" unless, pursuant to such transaction, the corporation makes a bona fide offer on a uniform basis to the foundation and every other person who holds such securities. The fact that a private foundation receives property, such as debentures, while other persons holding securities of the same class receive cash for their interest, will be evidence that such offer was not made on a uniform basis.

The submitted information indicates that A will offer to redeem the shares of stock held by all stockholders at a price representing the fair market value as determined by an independent third party appraiser. The Offer will be to all shareholders on a uniform basis and in cash. Because the redemption of the stock is subject to the same terms for all shareholders and that B will receive no less than fair market value for its shares of stock, the stock redemption will not be an act of self-dealing within the meaning of section 4941(d)(1) of the Code pursuant to the exception to self-dealing set forth in section 4941(d)(2)(F) of the Code and section 53.4941(d)-3(d)(1) of the regulations.

Based on the foregoing, we rule that the stock redemption by A is not an act of self-dealing under section 4941 of the Code.

This ruling is conditioned on the understanding that there will be no material change in the facts upon which it is based. We express no opinion as to the tax consequences of the transactions

under other provisions of the Code.

This ruling will be made available for public inspection under section 6110 of the Code after certain deletions of identifying information are made. For details, see enclosed Notice 437, *Notice of Intention to Disclose*. A copy of this ruling with deletions that we intend to make available for public inspection is attached to Notice 437. If you disagree with our proposed deletions, you should follow the instructions in Notice 437.

This ruling is directed only to the organization that requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited by others as precedent.

If you have any questions about this ruling, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Debra J. Kaweck
Manager, Exempt Organizations
Technical Group 2

Enclosure
Notice 437